

MATT BLUNT
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

*Administrative Rules Stamp

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MAR 15 2004

SECRETARY OF STATE
ADMINISTRATIVE RULES

A "SEPARATE" rule transmittal sheet must be used for EACH individual rulemaking.

A. Rule Number 4 CSR 240-13.035
Diskette File Name 4 CSR 240-13.035 Denial of Service Microsoft Word
Name of Person to call with questions about this rule:
Content Lera Shemwell Phone 573-751-7431 FAX 573-751-9285
Data Entry Lera Shemwell Phone 573-751-7431 FAX Same as above
Email Address learshemwell@psc.mo.gov
Interagency Mailing Address Governor Office Building, 200 Madison St., 8th Floor, Jefferson City, MO
Statutory Authority 386.250(6) Current RSMo date 2003 Supp.
Date Filed With the Joint Committee on Administrative Rules Exempt per Sections 536.024 and
Executive Order No. 97-97 (June 27, 1997)

B. CHECK, IF INCLUDED:

- | | |
|--|---|
| <input checked="" type="checkbox"/> This transmittal completed | <input type="checkbox"/> Incorporation by reference materials, if any |
| <input checked="" type="checkbox"/> Cover letter | <input type="checkbox"/> Authority with history of the rule |
| <input type="checkbox"/> Affidavit | <input type="checkbox"/> Public cost |
| <input type="checkbox"/> Forms, number of pages <u> </u> | <input type="checkbox"/> Private cost |
| <input type="checkbox"/> Fiscal notes | <input type="checkbox"/> Hearing and comment period |

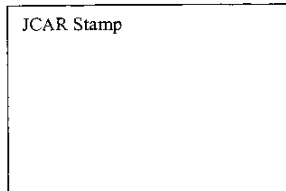
C. RULEMAKING ACTION TO BE TAKEN

- ☐ Emergency Rulemaking, (check one) ☐ rule ☐ amendment ☐ rescission ☐ termination
MUST include effective date
- ☐ Proposed Rulemaking (check one) ☐ rule ☐ amendment ☐ rescission
- ☒ Order of Rulemaking (check one) ☒ rule ☐ amendment ☐ rescission ☐ termination
MUST complete page 2 of this transmittal
- ☐ Withdrawal (check one) ☐ rule ☐ amendment ☐ rescission ☐ emergency
- ☐ Rule action notice
- ☐ In addition
- ☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Please indicate any special instructions (e.g., publication date preference, identify material to be incorporated by reference, or forms included herein).

Prefer publication at the earliest date

JCAR Stamp



RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-13.035

1a. Effective Date for the Order

☒ Statutory 30 days

Specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?

☒ YES

☐ NO

1c. If the answer is YES, please complete section F. If the answer is NO, **STOP** here.

F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. This is not a reprinting of your order, but an explanation of what sections, subsections, etc. have been changed since the original proposed rule was filed.

(Start text here. If text continues to a third page, insert a continuous section break and, in **section 3**, delete the footer text. DO NOT delete the header, however.)

Section (1)

Subsection (A) The term "in the state of Missouri" was deleted and "or by its regulated affiliate" was added. The entire sentence "To be considered to be disputed, the unpaid charge must be the subject of an open informal or formal complaint at the Commission" was added.

Subsection (B) The phrase "or the utility's tariffs" was added.

Subsection (C) The phrase "or failure" was added. The phrase "if the utility believes that health or safety is at risk" was deleted. "If the applicant does not provide access to the utility for such purposes, the" was added and "A" was deleted.

paragraph 1.

subparagraph D was added. "D. Written notice in the form of a door hanger left at the applicant's premises."

Subsection (G) "Failure of a previous owner or occupant of the premises to pay a delinquent utility charge where the previous owner or occupant remains an occupant." was added.

Subsection (H) "Failure to comply with the terms of a settlement agreement." Was added.

Subsection (I) "Unauthorized interference, diversion or use of the utility's service by the applicant, or by a previous owner or occupant who remains an occupant." was added.

Section (2)

Subsection (B) the phrases: ", or unless the applicant is the legal guarantor for a delinquent bill" and ", or unless the applicant is the legal guarantor for a delinquent bill" ", or that the applicant is the legal guarantor, provided that such burden shall not apply if the applicant refuses to cooperate in providing or obtaining information it does or should have regarding the applicant's residence history" were added.

paragraph 2. "five (5)" was deleted and changed to "seven (7)".

Section (3) has been changed.

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.

The utility shall commence service "at an existing residential service location" was added. The term "soon" was deleted and replaced with "close" the term "reasonably" was added. The term "normally" was added. The entire sentence: "provided that the applicant has complied with all requirements of this rule. When service to a new residential location is requested, the utility shall commence service in accordance with this rule as close as reasonably possible to the day specified by the applicant for service to commence, but normally no later than three (3) business days following the day that all required construction is completed and all inspections have been made" was added.

Section (4) the phrase "for reasons of maintenance, health, safety or a state of emergency" was deleted and the phrase "until the reason for such refusal has been resolved" was added.

Section (6) was added. "The requirements of the rule shall be implemented by the utility no later than November 1, 2004."



Commissioners
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Chair
CONNIE MURRAY
ROBERT M. CLAYTON III

Missouri Public Service Commission

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Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

March 15, 2004

Honorable Matt Blunt
Secretary of State
600 West Main Street
Jefferson City, Missouri 65101

Dear Secretary Blunt:

Rule: 4 CSR 240-13.035 DENIAL OF SERVICE RULE

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the final order of rulemaking lawfully submitted by the Missouri Public Service Commission on this 15th day of March 2004.

Statutory authority: 386.250, RSMo 2000; 393.140 RSMo 2000; 393.130 RSMo Supp. 2003.

Missouri Public Service Commission Case No.: AX-2003-0574

If there are any questions, please contact:

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BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Dale Hardy Roberts", is written over the text "BY THE COMMISSION".

**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

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ADMINISTRATIVE RULES

**Title 4 – Department of Economic Development
Division 240 –Public Service Commission
Chapter 13—Service and Billing Practices for Residential Customers
of Electric, Gas and Water Utilities**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 393.140, RSMo 2000, 393.130(1), RSMo Supp. 2003, the Commission adopts a rule as follows:

4 CSR 240-13.035 is adopted.

A notice of the proposed rulemaking containing the text of the rule was published in the *Missouri Register* on December 1, 2003 (*Missouri Register*, Vol. 28, No. 23). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on January 26, 2004. The time for submission of written comments ended December 31, 2003. The Commission received written comments from Kansas City Power & Light Company (KCPL); Laclede Gas Company (Laclede); Missouri Gas Energy (MGE); Ameren Services Company, Union Electric d/b/a AmerenUE (AmerenUE), and the Staff of the Commission. All of these utilities and Missouri American Water Company (MAWC) and the Office of the Public Counsel (OPC) attended the public hearing. At the public hearing, Lera L. Shemwell, Senior Counsel for the Staff of the Commission (Staff), explained the development of the proposed amendments and presented the response of the Commission Staff to all written comments that were provided to the Commission regarding the proposed rule. Staff's responses were in a written document that was marked Exhibit No. 1 and entered into the record. John Coffman, Public Counsel, Office of the Public Counsel, stated at the public hearing that OPC generally supported the rule as originally proposed with some slight modifications. At the public hearing Tim M. Rush, Director Regulatory Affairs, KCPL, and Michael A. Rump, Senior Attorney, Great Plains Energy Services (KCPL); Michael C. Pendergast, Vice President & Associate General Counsel, Laclede; James C. Swearngen and Brian T. McCartney, Attorneys for MGE and MAWC; and Thomas M. Byrne, Associate General Counsel, AmerenUE, all made additional comments on the record. The Commission asked clarifying questions and commented.

COMMENT: The Commission received four comments concerning the need for the rule. KCPL, Laclede, and MGE commented generally that the scope and magnitude of inquiries and complaints concerning denial of service do not warrant promulgation of the proposed rule. AmerenUE indicated that it did not object to the concept of the rule. The Staff indicated that the number of complaints regarding denial of service was increasing and that a rule similar to the discontinuance of service rule was necessary to protect consumers and to provide uniform standards for Missouri utility companies.

RESPONSE AND EXPLANATION OF CHANGE: This rule prescribes conditions under which utilities may refuse to commence service to an applicant for residential service and it establishes

procedures to be followed by all regulated investor owned electric, gas and water utilities to ensure reasonable and uniform standards for denial of service to captive customers. The Commission has statutory authority to promulgate rules governing how utilities provide service to the public. Case law is clear that the Commission may choose whether to regulate by rulemaking or by some other method. The conditions under which a Missouri utility may refuse to provide service should be quite similar to the conditions for discontinuance of services. As a result of comments, several changes were made to Section (1), including the additions of subsections (G), (H), and (I) to make the rule more similar to the discontinuance of service rule as provided by Commission rule 4 CSR 240-13.050.

COMMENT: Four utility companies, KCPL, Laclede, MGE and AmerenUE commented that: (1) the rule will increase the levels of uncollectible debt; (2) that the rule makes no provision for the recovery of the increased cost the utilities estimate that they may have to incur in order to comply with the rule; and (3) the rule is not revenue neutral which was both unfair to utilities and contrary to precedent before the Commission and Missouri courts. At least one company said that if the Commission adopted its suggestions for changes to the rule, the estimated cost of the rule would be significantly reduced. MGE suggested that its rates are lawful and that, by implication under Section 386.270, the Commission could not change rates in this rulemaking. Two companies suggested that the rule amounts to an unconstitutional taking. Staff commented that monopoly utilities have an obligation to provide an essential service and should not be permitted to deny service to a customer in good standing because of a debt owed by another customer. The Staff indicated that it is important to balance the needs of customers to receive an essential service, with the obligation of customers to pay for service that they receive, with the need to control bad debt expense, which is paid for by all customers. Staff further stated the courts have long held that a public utility has the duty to supply a commodity or furnish service to the public. This duty exists independently of statutes regulating the manner in which it shall do business, because the utility is organized to do business affected with a public interest and holds itself out to the public as being willing to serve all members of the public. A public utility is obligated by the nature of its business to furnish its service or commodity to the general public, or that part of the public that it has undertaken to serve. Overman v. Southwestern Bell Telephone Co., 675 S.W.2d 419, 424 (Mo.App. 1984). Likewise, customers have an obligation to pay for the service that they use. If the individual customer does not pay, other customers pay a higher rate to cover uncollectibles.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has statutory authority to prescribe conditions for rendering public utility service and to assure that consumers receive safe and reliable service. The Commission is authorized to promulgate rules for that purpose. The Commission is not setting rates by engaging in rulemaking. As a result of comments, the Commission will set November 1, 2004, as the implementation date for the rule, so that any increased costs may be considered in a pending rate case. In addition, the Commission adopted other changes to section (1) by adding subsections (G), (H) and (I), so that the rule more closely mirrored the discontinuance of service rule.

COMMENT: The Commission received comments from KCPL, AmerenUE, and Laclede indicating that the denial of service rule should closely mirror the discontinuance of service rule and should: (1) include an exception for unauthorized interference, or diversion; (2) add failure

to comply with a settlement agreement as a reason to deny service; and (3) include a provision that denial is permitted if the customer who owes a bill remains a tenant of the household when another person applies for service. Staff indicated that it agreed with addition of these provisions because the purpose of the rule is not to permit a customer to get service if the customer has diverted service, or failed to comply with a payment agreement into which they entered, or tried to engage in "name changing" to avoid payment to gain service. Staff stated that the rule is designed to protect customers who are otherwise in good standing from being forced to pay for the bill of another person prior to receiving service. Staff does not agree that a utility should be able to withhold service to a tenant because of a landlord's delinquent charges.

RESPONSE AND EXPLANATION OF CHANGE: As a result of these comments the Commission added to section (1), subsections (G), (H), and (I) that correspond to the Commission's Discontinuance of Service rule to make the Denial of Service rule more consistent with the Discontinuance of Service rule 4 CSR 240-13.050 .

COMMENT: KCPL and Laclede commented concerning Section (1)(A) of the proposed rule, that companies should be able to deny service for an applicant's failure to pay for service provided by that utility company or its affiliate in another state. KCPL urged removal of the language, "inside the state of Missouri" because customers should not be permitted to avoid the consequences of their delinquent bills by simply moving across state lines to other jurisdictions. KCPL commented that if the intent of Section (2)(B) of the proposed rule was to restrict the transfer of prior debt that the proposed rule would significantly increase the cost of providing service to Missouri customers. The Staff indicated that it agrees that a customer should not escape responsibility for payment of utility bills by crossing state lines. However, Staff also commented that a utility should not deny a Missouri customer service because of a delinquent utility charge for service in another state, and, further, a utility still has all the rights it would have to collect the debt, except to deny utility service.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, to assure that customers receive service, but to discourage customers from moving across state boundaries to avoid payment of utility bills, the Commission will remove the phrase "inside the state of Missouri." The Commission will change Section (1)(A) to include failure to pay an undisputed delinquent utility charge for service provided by that utility or its regulated affiliate. The affiliate may be regulated by another state. The Commission also changed the rule to define what constitutes a disputed bill.

COMMENT: KCPL commented that the rule violated Section 393.140(5).

RESPONSE: The Commission did not alter the rule as a result of this comment. Case law indicates that subsection (5) of Section 393.140 deals primarily with ratemaking and not rulemaking.

COMMENT: The Commission received comments concerning deposit requirements from Laclede indicating that if the deposit requirements are different in a company's tariffs, the company should be permitted to deny service as a result of failure to comply with its tariff requirements, as well as failure to post a required deposit or guarantee in accordance with 4 CSR

240-13.030. Staff agreed, in this case, that utility companies which have Commission approved tariffs with deposit requirements that vary from commission rules, should be permitted to apply those tariff provisions until those provisions become congruent with commission rules.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, Section (1)(B) of the rule was amended to include the phrase “or the utility’s tariffs.”

COMMENT: The Commission received three comments concerning denial of service if the customer refuses access to the Company’s equipment. AmerenUE, Laclede, and KCPL commented that in Section 1(C) of the proposed rule where the language reads “if the utility believes that health or safety is at risk”, should be stricken because a utility should have access to its equipment and determine whether health or safety is at risk. Laclede commented that this is a time when customers are usually cooperative in providing access and it is important to get an initial meter reading when service is first requested. Laclede also commented that the term “fails” should be added, because a customer might not actively refuse but might fail to cooperate. Staff agreed that a utility company must have access to its equipment to read meters and check the condition of its equipment to assure that health and safety are not at risk. Staff agreed that a customer might fail to be available to provide access while still cooperating with the company.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, the Commission changed the rule to remove the phrase: “if the utility believes that health or safety is at risk” and added the term “fails” to the rule.

COMMENT: KCPL commented that: (1) Section (1)(C)1. of the proposed rule, which outlines notice that should be provided to a customer should inspection, maintenance, replacement or meter reading of the utility equipment be required before establishing service, should allow for written notice in the form of a door hanger left at the applicants premises; (2) that the statement on the notice in Spanish should not be required; and (3) that the rule should make clear that this notice is only required if the customer refuses access to the company’s equipment. Laclede commented that the requirement for a notification was unnecessary and that the requirement for notification in Spanish was not necessary. Staff agreed that allowing the utilities to provide written notice in the form of a door hanger left at the applicant’s premises is a reasonable form of notification but does believe that the statement on the notice in Spanish should be included when the utility prints new notices.

RESPONSE AND EXPLANATION OF CHANGE: In response to the comments, the Commission added a section permitting notice by door hanger and also added language clarifying that this notice provision applies when a customer refuses inspection or access to equipment. The Commission will not change the requirement for the notice to contain an explanation in Spanish.

COMMENT: MGE commented that the proposed rule constitutes unlawful single-issue ratemaking in that it makes no provision to compensate MGE for revenues that will be lost due to nullification of Section 3.02 of MGE’s tariff. Staff does not agree with MGE that Section 3.02 of MGE’s tariff will be nullified, nor does the staff agree that the proposed rule constitutes

single-issue ratemaking or that it eliminates the utility's right to collect debt; the proposed rule sets forth the conditions under which a utility may deny service.

RESPONSE AND EXPLANATION OF CHANGE: As a result of these comments, the Commission will make the rule effective as of November 1, 2004.

COMMENT: Several commenters urged changes to the burden of proof section. AmerenUE commented that the burden of proof requirement should be changed because, as a practical matter, utilities do not have reliable evidence showing where each person is in its service territory lives at any given moment. If utilities are required to meet this standard, they will seldom, if ever, be able to apply the benefit of service rule to collect outstanding debts, and these costs will have to be borne by the utility's other customers. Several commenters stated that the applicant should know and be able to show where he or she has lived in the past and that an applicant can easily provide evidence, in the form of leases, other documents or even sworn statements that show exactly where he or she lived during the period of time in question. Staff commented that the utility still has the right to ask an applicant to provide information on a previous residence. The purpose of the proposed rule is to eliminate the additional information requested by utilities of the applicant in attempting to prove the applicant may have resided somewhere else and may have received benefit of service at that other residence. In addition, Staff does not believe that customers should be required to give information about co-occupants. OPC stated that the rule could encourage applicants to lie about others living in the residence.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, the Commission has added language to the rule that states that the burden of proof shall not apply if the applicant refuses to cooperate in providing or obtaining information the applicant does or should have regarding the applicant's residence history.

COMMENT: AmerenUE commented that the proposed rule created a loophole by providing that the unpaid bill must not be "in dispute." AmerenUE said this provision would also make it virtually impossible for any utility to collect unpaid bills using the benefit of service rule; it stated that customers could avoid paying bills by simply continuing to dispute them indefinitely. The company offered an alternative to mitigate this loophole by requiring the unpaid bill to be subject of an open or informal complaint at the Commission. The staff agrees that requiring that a disputed bill be the subject of a formal or informal complaint provides a verifiable standard for determining when a bill is in dispute. OPC was concerned that a customer should be able to have a dispute with the company and believes that the existence of a formal or informal complaint should be sufficient to invoke this provision.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, the Commission changed Section (1)(A) of the rule to define what constitutes a disputed bill.

COMMENT: Laclede and AmerenUE commented that the proposed rule provides that applicants are only responsible for unpaid bills incurred within the last five (5) years. AmerenUE believed this to be an arbitrary limitation on an applicant's responsibility for an unpaid bill and is inconsistent with the rules concerning discontinuance of service, which contain no such limitation. AmerenUE believes customer responsibility for unpaid bills should be limited only

by the applicable statutes of limitation, not shorter periods included in a Commission rule; otherwise, these costs will ultimately have to be borne by other ratepayers, who bear no responsibility for the arrearage at all. Laclede states it is able to identify hundreds of thousands of dollars in undisputed bad debts that customers have been able to avoid paying by staying out of the system five or more years. Staff commented that the requirement that the bill has been incurred in the past five (5) years only applies when an applicant is being asked to pay the bill of another customer in order to receive service. Utility companies should be encouraged to collect unpaid bills promptly and the rule does not have any effect on any other collection method that the utility might use.

RESPONSE AND EXPLANATION OF CHANGE: In an attempt to balance the needs of individual customers to receive service and the needs of all customers not to have increased bad debt expense, the Commission has changed the requirement to seven (7) years.

COMMENT: KCPL, Laclede, and AmerenUE commented that Section (3) of the proposed rule should be changed to require provision of service to an applicant as soon as possible with no specific requirement, or should be changed to allow for five (5) business days following the date specified by the applicant for commencement of service. KCPL commented that the rule should recognize that in some circumstances additional time may be required due to unusual circumstances, and said that the time limitation set forth in the rule should only apply to existing service. KCPL, Laclede and AmerenUE stated that new service, which requires service line extension and meter installation, may take longer and that the five (5) day window should only start after all inspections required as a precondition of service have been completed. Two utilities stated that there should be a different standard for new residential construction. Laclede commented that the language should be clarified so that the deadline for commencing service only applies upon successful completion and acceptance of the prospective customer's application for service. Staff commented that the three days should usually be sufficient time to connect service. There may be times when unusual circumstances occur, such as storms, where connection within three (3) days might not be possible. Staff recommended changing the rule to say "normally" the time for connection is three (3) days. Staff agrees that the three (3) day requirement should not start until new construction of a service line extension and meter installation was complete and all inspections have been completed.

RESPONSE AND EXPLANATION OF CHANGE: as a result of these comments, the Commission has changed the rule to clarify that the rule applies to residential service and that service should be supplied in accordance with the rule as close as reasonably possible to the day specified by the customer for service to commence, but normally no later than three (3) business days following the day specified by the customer for service to commence, provided that the customer has complied with all requirements of this rule. The Commission also added language to provide that when service to a new residential service location is requested, the utility shall commence service in accordance with this rule as close as reasonably possible to the day specified by the customer for service to commence, but normally no later than three (3) business days following the day all required construction is completed and all inspections have been made.

COMMENT: KCPL and AmerenUE commented that the word “temporary” in Section (4) of the proposed rule should be deleted, as it should be possible for a utility to permanently refuse service for health and safety reasons. AmerenUE felt one could construe the term “temporarily” as limiting the amount of time the utility can deny service in such situations. Staff stated that the term “temporarily” could be misconstrued if a long standing health and safety issue existed. Staff, therefore, did not object to the removal of the word “temporary.”

RESPONSE AND EXPLANATION OF CHANGE: As a result of comments the Commission has changed the rule to include language that the utility may refuse service if safety or health is at issue until the reason for such refusal has been resolved.

4 CSR 240-13.035 Denial of Service

1) A utility may refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay an undisputed delinquent utility charge for services provided by that utility or by its regulated affiliate. To be considered to be disputed, the unpaid charge must be the subject of an open informal or formal complaint at the Commission.

(B) Failure to post a required deposit or guarantee in accordance with 4 CSR 240-13.030 or the utility’s tariffs;

(C) Refusal or failure to permit inspection, maintenance, replacement or meter reading of utility equipment. If the applicant does not provide access to the utility for such purposes, the utility shall provide notice to the applicant regarding its need for inspection, maintenance, replacement or meter reading of utility equipment and shall maintain an accurate record of the notice provided.

1. The notice shall include one (1) of the following:

A. Written notice by first class mail sent to the applicant; or

B. Written notice delivered in hand to the applicant; or

C. At least two (2) telephone call attempts reasonably calculated to reach the applicant; or

D. Written notice in the form of a door hanger left at the applicant’s premises.

(D) Misrepresentation of identity;

(E) Violation of any other rules of the utility approved by the commission which adversely affects the safety of the customer or other persons or the integrity of the utility’s system; or

(F) As provided by state or federal law.

(G) Failure of a previous owner or occupant of the premises to pay a delinquent utility charge where the previous owner or occupant remains an occupant.

(H) Failure to comply with the terms of a settlement agreement.

(I) Unauthorized interference, diversion or use of the utility’s service by the applicant, or by a previous owner or occupant who remains an occupant.

(2) A utility may not refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay for merchandise, appliances or services not subject to commission jurisdiction as an integral part of the utility service provided by a utility;

(B) Failure to pay the bill of another customer, unless the applicant who is seeking service received substantial benefit and use of the service to that customer, or unless the applicant is the legal guarantor for a delinquent bill. In this instance, the utility refusing to commence service, shall have the burden of proof to show that the applicant received substantial benefit and use of

the service, or that the applicant is the legal guarantor, provided that such burden shall not apply if the applicant refuses to cooperate in providing or obtaining information it does or should have regarding the applicant's residence history. To meet that burden the utility must have reliable evidence that:

1. The applicant and that customer resided together at the premises where the bill was incurred and during the period the bill was incurred; and

2. The bill was incurred within the last seven (7) years; and

3. The utility has attempted to collect the unpaid bill from the customer of record; and

4. At the time of the request for service, the bill remains unpaid and not in dispute.

(3) The utility shall commence service at an existing residential service location in accordance with this rule as close as reasonably possible to the day specified by the customer for service to commence, but normally no later than, three (3) business days following the day specified by the customer for service to commence provided that the applicant has complied with all requirements of this rule. When service to a new residential location is requested, the utility shall commence service in accordance with this rule as close as reasonably possible to the day specified by the applicant for service to commence, but normally no later than three (3) business days following the day that all required construction is completed and all inspections have been made.

(4) Notwithstanding any other provision of this rule, a utility may refuse to commence service temporarily for reasons of maintenance, health, safety or a state of emergency until the reason for such refusal has been resolved.

(5) Any provision of this rule may be waived or varied by the commission for good cause.

(6) The requirements of the rule shall be implemented by the utility no later than November 1, 2004.